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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------------|---------------------|------------------|
| 09/909,488 | 07/20/2001 | Harapanahalli S. Muralidhara | 33449.8029.US00 | 2586 |
| 34055 | 7590 | 03/02/2006 | EXAMINER | |
| PERKINS COIE LLP POST OFFICE BOX 1208 SEATTLE, WA 98111-1208 | | | FORTUNA, ANA M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1723 | |
| DATE MAILED: 03/02/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/909,488

Applicant(s)

MURALIDHARA ET AL.

Examiner

Ana M. Fortuna

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 19 November 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: _____.

Ana M Fortuna
Primary Examiner
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Continuation of 11. does NOT place the application in condition for allowance because: although Applicants discuss that the membrane of KOCH (SR1) was not use in water treatment before their invention, the pass office action is not based on KOCH reeference only. Reference to Nytia (Metropolytan Water District of Southern California) , evidence the water filtration with SR1 and NF90, both membranes meed the rejection perforamance claimed. Rejection over Nytia Et Al is not responded by Applicant.. Note that Nytia publication study was peformed prior to Applicant's application filing date(1999-2000). Article to Nytia et al is a power point presentation that inlcudes a publication date of 8/15/2000 (see attached verification of publication date. for the reasons above, the rehectionb of claims 31-35, and 37-40 is maintained.

Response to Arguments

1. Applicant's arguments filed 2/01/05 have been fully considered but they are not persuasive. Rejection over Nytia et al is maintained. Applicant did not responded to this rejection, which show use of "at least one NF" membrane module in a process for treating "a source of potable water", e.g. municipal water, with a membrane having the claimed membrane rejection and operation properties, e.g. SR1 and NF90 membranes. Applicant discloses the same source of water (specification page 4, second paragraph, lines 15-17, and page 12, lines 19-22), and the same membrane (spec. page 11, second paragraph). Applicants also disclose increasing flow rates by using parallel arrangement, as known in the art (see page 7, last paragraph). The salt contain of the feed water is inherent of the particular source or the pre-treated source, as discussed in the specification (page 12, second paragraph, and the reference (Nytia et al. page 3). One skilled in this art can expect the same results by operating the same membrane (s) for treating the same source at the same operating conditions e.g. manufacturer suggested pressure ranges, pH conditions, and inherent membrane calcium and other salts rejection.

Evidence-unexpected results arguments must show actual differences and show that differences are not obvious.

In order to showing of unexpected results to be probative evidence of nonobviousness, it falls upon applicant to at least establish 1) that there is actually a difference between the results obtained through claimed invention and those of the prior art and 2) that the

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difference actually obtained would not have been obvious to one of ordinary skill in the art.

In re Freeman, 474 F2d 1218; 177 USPQ 139 (CCPA 1973).

In re Lewis 170 USPQ 84 CCPA (1971).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana M. Fortuna whose telephone number is (571) 272-1141. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Art Unit 1723